

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:
BASIC CHEMICAL SOLUTIONS, LLC

AI # 89277

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.

* Settlement Tracking No.
* SA-AE-05-0060
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* Enforcement Tracking No.
* AE-PP-05-0145
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SETTLEMENT AGREEMENT

The following Settlement is hereby agreed to between Basic Chemical Solutions, LLC ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I.

Respondent is a limited liability company that owns and operates an inorganic chemical terminal located approximately ¼ mile east of La. Highway 3115 on La. Highway 75 at 10790 La. Hwy. 75 in Geismar, Ascension Parish, Louisiana ("the Facility"). The Facility operates as a minor source of air emissions under the provisions of Louisiana Air Quality Permit No. 0180-00094-00, issued on July 25, 2001, as modified by Permit No. 0180-00094-01 issued on August 26, 2005.

SA-AE-05-0060

II.

On October 26, 2005, the Department issued a Notice of Potential Penalty, Enforcement No. AE-PP-05-0145, to Respondent, which was based upon the following Department's findings of fact:

The facility operates as a minor source of air emissions under the provisions of Louisiana Air Quality Permit No. 0180-00094-00, issued on July 25, 2001. An amendment to the application was submitted to the Department on July 14, 2005. In the application, the facility proposes the handling of three (3) new "products" that are not produced at the site, aqueous potassium hydroxide, aqueous sodium bisulfite, and aqueous sodium hypochlorite. Upon approval by the permitting authority, the Respondent would be permitted to distribute the three (3) new products. The facility also requested the addition of two (2) new Emission Point ID numbers 6-01 (Tank 9) and 7-01 (Tank 10) to store sulfuric acid and chlorine, respectively. Included in the permit modification application is the redesignation of three (3) tanks, Emission Point ID Numbers 2-01 (Tank 5), 6-01 (Tank 9), and 7-01 (Tank 10), as significant emissions sources. The Respondent also proposes a throughput increase in the modification application, from the currently permitted 41.35 million gallons per year to 72.4 million gallons per year. The Respondent self reported throughput exceedances to the Department on May 17, 2005, June 14, 2005, July 13, 2005, and August 23, 2005. The Department received a request for interim limits on July 22, 2005, to operate under the proposed throughput limit specified in the permit modification application. On August 26, 2005, the permit modification, including all of the aforementioned requests, was approved by the permitting authority.

While the Louisiana Department of Environmental Quality's (the Department) investigation is not yet complete, the following violation was noted during the course of the inspection and subsequent file review on or about June 2, 2005, and July 13, 2005:

The Respondent submitted notifications to the Department on May 17, 2005, June 14, 2005, July 13, 2005, and August 23, 2005, reporting throughputs above the maxima listed in Specific Condition No. 3 of Louisiana Air Quality Permit No. 0180-00094-00 for any twelve (12) consecutive month period. Specifically, the Respondent reported a throughput of 42.27 MM gallons for the twelve consecutive month period of May 2004 through April 2005, 42.53 MM gallons for the twelve consecutive month period of June 2004 through May 2005, 43.05 MM gallons for the twelve consecutive month period of July 2004 through June 2005, and 42.06 MM gallons for the twelve consecutive month period of August 2004 through July 2005. The permitted maxima for annual throughputs of product handled at this facility under Permit No. 0180-00094-00 are 41.35 MM. Each exceedance is a violation of Specific Condition No. 3 of Louisiana Air Quality Permit No. 0180-00094-00, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act. The permitting authority approved the permit modification request to increase the facility's throughput limit value from 41.35 million gallons per year to 72.4 million gallons per year on August 26, 2005.

III.

Respondent responded to and corrected or clarified various factual representations made in the Notice of Potential Penalty in correspondence to the Department dated November 8, 2005, and later made a settlement offer of Nine Hundred Twenty-Four and 50/100 (\$924.50) Dollars, which was accepted by the Department.

IV.

Respondent neither admits nor denies the Department's findings of fact, and denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V.

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount

of Nine Hundred Twenty-Four and 50/100 (\$924.50) Dollars, of which Five Hundred Twenty-Four and 50/100 (\$524.50) Dollars represents the Department's enforcement costs, in full and final settlement of any and all claims raised by DEQ in Enforcement Tracking No. AE-PP-05-0145. The Department consents not to initiate or maintain any administrative enforcement action, lawsuit, penalty, order, claim or other action against Respondent with respect to the matters resolved and settled herein. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI.

Neither by entering into this Settlement Agreement nor by taking any action in accordance with it (including making the payments required by the agreement), shall Respondent be deemed to have admitted any liability for any purpose or any responsibility for, or wrongdoing relating to, the matters addressed in this agreement, or to have admitted any issues of law or fact relating to or arising out of the matters addressed in this Settlement Agreement.

VII.

The Department may consider the inspection report(s), the Notice of Potential Penalty, and this Settlement Agreement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VIII.

This Settlement Agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this Settlement Agreement. Respondent, however, expressly reserves the right to such review of the actions of the Department acting upon, interpreting, applying, and/or enforcing the terms of this Settlement Agreement. Respondent further expressly reserves any and all rights, defenses, claims, demands, and causes of action which it may have with respect to any matter, action, event, claim or proceeding relating in any way to the matters addressed in this Settlement Agreement against any person, firm, or corporation except as expressly provided herein.

IX.

This Settlement Agreement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA-R.S. 30:2025(E) of the Act.

X.

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Ascension Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this Settlement Agreement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date

this Settlement Agreement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

XI.

Payment is to be made within thirty (30) days from notice of the Secretary's signature. If payment is not received within that time, this Settlement Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XII.

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement Agreement.

XIII.

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

(signature pages to follow)

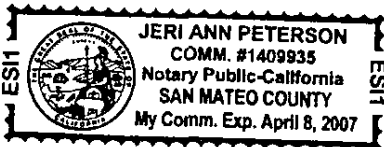
BASIC CHEMICAL SOLUTIONS, LLC

BY: Chris Shores
(Signature)

Chris Shores
(Printed or Typed)

TITLE: Director of Operations

THUS DONE AND SIGNED in duplicate original before me this 26th day of
January, 20 06, at Redwood City, CA.



Jeri Ann Peterson
NOTARY PUBLIC (ID # 1409935)

Jeri Ann Peterson
(Printed or Typed)

STATE OF LOUISIANA
Mike D. McDaniel, Ph.D., Secretary
Department of Environmental Quality

BY: Harold Leggett
Harold Leggett, Ph.D., Asst. Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 28th day of
March, 20 06, at Baton Rouge, Louisiana.

Randall S. Bend
NOTARY PUBLIC (ID # 22771)

Randall S. Bend
(Printed or Typed)

Approved: Harold Leggett
Harold Leggett, Ph.D., Assistant Secretary